Welcome to the 2014 Annual Ethics Training

Introduction

Welcome to your 2014 Annual Ethics Training. This year we have developed training scenarios modeled from real-world situations in the DoD work environment to illustrate potential ethics issues and their appropriate resolution.

If you have any questions while you are taking this training, please contact your ethics counselor.

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What Topics Will We Cover?

This training will cover:

- Applicable Ethics Laws and Regulations including:
  - Conflict of Interest Statutes, and Other Authorities
  - Speaking Related to Official Duties
  - Outside Employment
  - Seeking Employment
  - Post Government Employment
  - Confidential Financial Disclosure
  - Gifts from Foreign Governments

Structure of Training

The below icons represent the five steps to each training module.

STEP	ICON	EXPLANATION
1		Review the General Rule and common exce or exemptions.
2		Reflect on how the rule upholds public confi in the integrity of the Government.
3		Read the Scenario.
4		Respond to the Question by selecting the ossible answer.
5		R d through the answer's explanation.

Conflict of Interest Statutes

STATUTE	BRIEF SUMMARY
18 U.S.C. 201 Bribery	Prohibits public officials from seeking, receiving or agreeing to accept anything of value for themselves or others in return for being influenced in an official act; being influenced to aid in the commission of a fraud on the United States; or being induced to do or omit any act in violation of official duty.
18 U.S.C. 203 Representation	Bars employees from seeking or accepting compensation for representing another before a Federal department, agency or court in matters where the U.S. is a party or has a substantial interest; or receiving money from anyone else's representation.

Conflict of Interest Statutes

STATUTE	BRIEF SUMMARY
18 U.S.C. 205 Representation	Forbids employees from prosecuting or assisting in the prosecution of claims against the U.S.; or representing another before a Federal department, agency or court in matters where the U.S. is a party or has a substantial interest.
18 U.S.C. 207 Post-Gov Employment	Places certain restrictions on representing others to the Federal government after leaving its employment.

Conflict of Interest Statutes

STATUTE	BRIEF SUMMARY
18 U.S.C. 208 Financial Conflict of Interest	Bars an employee from participating personally and substantially in an official capacity in any particular Government matter that would have a direct and predictable effect on his own or his imputed financial interests.
18 U.S.C. 209 Dual Compensation	Prohibits employees from receiving any salary or contribution to or supplementation of salary from any source other than the United States as compensation for services as a Government Employee.

14 General Principles

5 C.F.R. § 2635.101(b)

Principles of Ethical Conduct

The following general principles apply to every employee and may form the basis for the standards contained in this part. Where a situation is not covered by the standards set forth in this part, employees shall apply the principles set forth in this section in determining whether their conduct is proper.

1 Public service is a public trust, requiring employees to place loyalty to the Constitution, the laws and ethical principles above private gain.

2 Employees shall not hold financial interests that conflict with the conscientious performance of duty.

3 Employees shall not engage in financial transactions using nonpublic Government information or allow the improper use of such information to further any private interest.

4 An employee shall not, except as permitted by subpart B of this part, solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by the employee's agency, or whose interests may be substantially affected by the performance or nonperformance of the employee's duties.

5 Employees shall put forth honest effort in the performance of their duties.

6 Employees shall not knowingly make unauthorized commitments or promises of any kind purporting to bind the Government.

7 Employees shall not use public office for private gain.

8 Employees shall act impartially and not give preferential treatment to any private organization or individual.

Career Development

14 General Principles

9 Employees shall protect and conserve Federal property and shall not use it for other than authorized activities.

10 Employees shall not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with official Government duties and responsibilities.

11 Employees shall disclose waste, fraud, abuse, and corruption to appropriate authorities.

12 Employees shall satisfy in good faith their obligations as citizens, including all just financial obligations, especially those--such as Federal, State, or local taxes--that are imposed by law.

13 Employees shall adhere to all laws and regulations that provide equal opportunity for all Americans regardless of race, color, religion, sex, national origin, age, or handicap.

14 Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in this part. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.

U.S. Office of Government Ethics
www.usoge.gov

The principles of ethical conduct were issued by George H.W. Bush, in Executive Order 12674, as amended by Executive Order 12731. The principles were subsequently issued in the *Standards of Ethical Conduct for Employees of the Executive Branch* at 5 C.F.R. § 2635.101(b). Each executive branch agency has a Designated Agency Ethics Officer responsible for oversight of the agency's ethics program.

Employee Responsibilities under Executive Order 12674 (as amended)

DO

- Place loyalty to the Constitution, the laws, and ethical principles above private gain.
- Act impartially to all groups, persons, and organizations.
- Give an honest effort in the performance of your duties.
- Protect and conserve Federal property.
- Disclose waste, fraud, abuse, and corruption to appropriate authorities.
- Fulfill in good faith your obligations as citizens, and pay your Federal, State, and local taxes.
- Comply with all laws providing equal opportunity to all persons, regardless of their race, color, religion, sex, national origin, age, or handicap.

Employee Responsibilities under Executive Order 12674 (as amended)

DO NOT ~~

- Use non-public information to benefit yourself or anyone else.
- Solicit or accept gifts from persons or parties that do business with or seek official action from DoD (unless permitted by an exception).
- Make unauthorized commitments or promises that bind the Government.
- Use Federal property for unauthorized purposes.
- Take jobs or hold financial interests that conflict with your Government responsibilities.
- Take actions that give the appearance that they are illegal or unethical.

Guidance for DoD Personnel

Additional ethics resources for DoD personnel includes:

- DoD 5500.07-R, Joint Ethics Regulation (JER);
- The DOD Standards of Conduct Office website: http://www.dod.mil/dodgc/defense_ethics/; and
- The Navy Ethics Compass website: http://ethics.navy.mil.

GENERAL RULE
Speaking Related to Official Duties

A Federal employee cannot receive compensation from any source other than the Government for speaking that relates to the employees official duties. Speaking or writing relates to an employee's official duties if:

- The activity is undertaken as part of the employee's official duties;
- The invitation was extended because of the employee's official duties;
- The invitation is from a person whose interest may be affected by the employee's official duties;
- The presentation is based on non-public information; or
- The topic deals with the employee's current duties or those during the previous year, or the topic deals with a policy, program, or operation of the employee's agency.

REFLECTION
Speaking Related to Official Duties

- Federal employees are prohibited from using their official positions for private gain. Therefore, Federal employees, absent specific statutory or regulatory authority, cannot receive payment for teaching, speaking, or writing about topics which relate to their official duties.

SCENARIO
Speaking Related to Official Duties

- Bob is a engineer at NAWC AD. His principle area of research is metallurgy and alloy development. The National Association of Aircraft Manufacturers invite Bob to present at its national convention, which is taking place on a Saturday in Washington, D.C. They ask that Bob focus his speech on his research and how alloy development has impacted aircraft manufacturing for the Department of the Navy. The NAAM has offered to compensate Bob $200 for his time.

QUESTION
Speaking Related to Official Duties

May Bob accept compensation for his presentation?

1. Yes, the event is taking place on a Saturday and, therefore, is not taking place during the work day nor impacting his official duties.
2. No, the topic of his speech focuses on his research and he is prohibited from accepting compensation for speaking on topics which relate to his official duties.
3. Yes, provided Bob obtain authorization from his supervisor prior to giving the speech.

ANSWER
Speaking Related to Official Duties

[1] INCORRECT. The prohibition on accepting compensation for teaching, speaking, or writing on topics that relate to a Federal employee's official duties applies regardless of whether the activity occurs during non-duty hours.

ANSWER
Speaking Related to Official Duties

[2] CORRECT! Correct! Bob cannot accept the $200 payment because Federal employees are prohibited from accepting compensation from any source other than the Federal government for teaching, speaking or writing that relates to the employee's official duties.

ANSWER
Speaking Related to Official Duties

[3] INCORRECT. Bob's supervisor has no authority to waive the prohibition on accepting compensation for teaching, speaking, or writing on topics that relate to a Federal employee's official duties.

Outside Employment

- This section addresses outside activities such as working and teaching, speaking, or writing by Federal employees in a personal capacity.
- The general rule for outside activities is permissive: Executive branch employees, subject to some limitations, are allowed to participate in outside activities. An employee, however, may not have outside employment or be involved in an outside activity that conflicts with the official duties of the employee's position.

GENERAL RULE
Outside Employment

DoD personnel may engage in outside employment or be self-employed outside the workplace. There are, however, several limitations that an employee should keep in mind:

- Interference: A DoD employee may not engage in outside activities that interfere with his performance of official duties, are prohibited by statue or regulation, or would require the employee's disqualification from matters critical to the office;
- Employees that file annual Financial Disclosure Reports (OGE 278 Form or OGE 450 Form) must obtain prior written approval from his/her "Agency Designee" before working for a prohibited source. Permission shall be granted unless the outside activity involves conduct prohibited by statute or regulation;

GENERAL RULE
Outside Employment

(List continued from previous slide)

- Employees may not act as an agent or attorney for anyone before any agency of the Government on any matter in which the United States is a party or has a direct and substantial interest;
- Other than in the performance of official duties, employees may not receive compensation for representational services rendered either personally or by another;
- Employees are prohibited from participating personally and substantially in an official capacity in any particular Government matter that would have a direct and predictable effect on his/her financial interests; and
- Employees are prohibited from taking positions when to do so would create an appearance of a conflict of interest.

REFLECTION
Outside Employment

- Generally outside employment is permissible provided it does not conflict with the employees official duties and, if required, permission is obtained prior to engaging in outside employment.

SCENARIO
Outside Employment

- Mary is a Federal employee and her position requires that she file an annual OGE 450 Confidential Financial Disclosure report. She is looking to make some extra money for the upcoming holidays. She learns that XYZ Corporation is hiring temporary employees for a special project. Although XYZ Corporation has contracts with NAVAIR, Mary learns that the special project has nothing to do with the Federal government. Additionally, Mary's PMA does not have any contracts with XYZ Corporation. Mary submits her resume and is offered the position.

QUESTION
Outside Employment

Can Mary accept the position?

1. No, Mary is prohibited from accepting the position because XYZ Corporation is a prohibited source and doing so would create a conflict of interest.
2. Yes, the duties of the position do not involve the Federal government.
3. Yes, but only after she receives written approval from her Agency Designee.

ANSWER

Outside Employment

[1] INCORRECT. Although XYZ Corporation has contracts with NAVAIR, none of the contracts are with Mary's PMA. Furthermore the position that Mary applied for does not involve any of the contracts that XYZ Corporation has with the Federal government. But because Mary is an annual Confidential Financial Disclosure filer and XYZ Corporation is a prohibited source, she will be required to obtain approval from her 'Agency Designee' before working for XYZ Corporation.

ANSWER
Outside Employment

[2] INCORRECT. Although the duties of the position do not involve the Federal government, Mary is an annual Confidential Financial Disclosure filer and XYZ Corporation is a prohibited source. Therefore, Mary is required by regulation to obtain authorization from her ‘Agency Designee’ before working for a prohibited source.

ANSWER

Outside Employment

[3] CORRECT! Financial disclosure filers must obtain prior written approval from their ‘Agency Designee,’ which is the employee’s first level supervisor, before working for a prohibited source. Permission shall be granted unless the outside activity involves conduct which is prohibited by statute or regulation. In Mary’s case permission would likely be granted.

GENERAL RULE
Seeking Employment

DoD personnel who are seeking employment or who have an arrangement concerning prospective employment must disqualify themselves from participating in any particular matter that would have a direct and predictable effect on the financial interests of that prospective employer. That disqualification must be in writing.

18 U.S.C. 208 and 41 U.S.C. 2101-2107.

REFLECTION
Seeking Employment

Most personnel do not leave their current positions until they have secured new employment. Therefore, personnel who are seeking employment outside the Government may be placed in a situation in which their official duties require them to take action on a matter that could affect the interests of the entity with whom they are seeking employment. The public has a right to expect that government personnel making decisions, recommendations, or advice in matters reflect the best interest of the Government and not their personal interests. To ensure this, the ethics laws and regulations require that the government personnel disqualify themselves from participating in that particular matter. In DoD, that disqualification should be made in writing to the employee's supervisor.

SCENARIO
Seeking Employment

Johnny A is a YD-02 Information Technology (IT) specialist with DoD and is thinking about leaving DoD for the private sector. A private IT firm, Extra Company, learns of this and, appreciating Johnny's expertise, contacts him about potential employment. Johnny is interested in talking with the Extra Company because of the cutting edge work this firm does. He knows this first hand because he serves as the contracting officer's technical advisor on one of Extra Company's IT contracts with DoD. Johnny tells Extra Company that he will be interested in talking with them once his technical advisory duties on their contract have ceased.

QUESTION
Seeking Employment

May Johnny continue to perform his technical advisory duties on the IT
contract with Extra Company?

Please choose the best answer. Should the general rule apply? Is there an exception?

1. Yes, Johnny may continue to perform his technical advisory duties on the Extra Company contract because he is not seeking employment with Extra Company and does not have to disqualify from dealings with them.
2. No, Johnny may not continue to perform his technical advisory duties on the Extra Company contract because he has not definitively rejected Extra Company's employment overtures. He needs to disqualify from working on Extra Company's particular matters.
3. Yes, because he will not actively engage in employment discussion with Extra Company while he performs these technical advisory duties, so he doesn't need to disqualify.

ANSWER
Seeking Employment

[1] INCORRECT. The fact that Johnny is not actually negotiating with or has not accepted a job offer from the Extra Company is not sufficient to prevent a violation.

ANSWER
Seeking Employment

[2] CORRECT! The ethics laws and regulations prohibit an employee from participating personally and substantially in a particular matter that could affect the financial interests of a party with whom the employee is negotiating or seeking employment. In performing his technical advisory duties, Johnny is participating personally and substantially (*e.g.*, advising the contracting officer whether Extra Company's product meets the technical specifications) in the contract, a particular matter that would affect the financial interests of Extra Company. Unless Johnny unequivocally rejects the possibility of employment and terminates all discussions about possible employment with Extra Company, he is still considered to be seeking employment with Extra Company. Johnny must disqualify himself from participating in such matters in his official capacity.

ANSWER
Seeking Employment

[3] INCORRECT. The fact that Johnny has deferred talking to Extra Company until such time as he has completed his technical advisory duties is not sufficient to prevent a violation. The fact that Johnny has not actually accepted employment with Extra Company is not sufficient to prevent a violation.

Seeking Employment

Section 847 of the 2008 National Defense Authorization Act requires certain current and former DoD personnel to request written post-employment advice if they want to receive compensation from a DoD contractor. This provision became effective on January 28, 2008, and requires covered personnel to seek an ethics opinion letter within the two-year period from the date they left the Government. "Covered DoD officials" either:

A. Currently hold, or held when they left the Department, one of the following positions:

1. in the Executive Schedule, which is one appointed by the President and confirmed by the Senate;

2. in the Senior Executive Service; or

3. in a general or flag officer position (grade 0-7 and above) (not frocked);

and participated personally and substantially at the time of service in one of the above positions in an acquisition with a value in

Seeking Employment (continued)

B. currently serve, or served when they left the Department, in one of the following positions: program manager, deputy program manager, procuring contracting officer, administrative contracting officer, source selection authority, member of the source selection evaluation board, or chief of a financial or technical evaluation team for a contract in excess of $10,000,000.

DoD contractors may not pay these individuals until 30 days following their request for an ethics opinion or the date they receive the opinion, whichever occurs first. If you anticipate working for a DoD contractor after leaving DoD and you are one of the covered officials, please plan to request a written opinion at least 30 days prior to wanting to receive compensation.

GENERAL RULE
Post Government Employment

18 U.S.C. 207 permanently bars former personnel who participated personally and substantially as government employees in particular matters involving specific parties **from communicating to or appearing before government personnel** (of the Executive and Judicial Branches) on behalf of someone else, *e.g.*, their new employer, on those same particular matters. 18 U.S.C. 207 also imposes a two-year bar on former employees communicating and/or representing an entity back to the Government on particular matters involving specific parties that were pending under their official responsibility during their last year of government service. This bar applies even when the employee did not work on the matter itself, but merely oversaw subordinates who were assigned work on the matter. Finally, 18 U.S.C. 207 imposes a one year bar ("cooling-off" period) for certain senior officials (*e.g.*, PAS, SES, and flag/general officers) on such representational activities before personnel of their former agency with respect to any issue, initiative, or matter on which they seek official action, regardless of whether they participated in or had official responsibility for that issue or matter. This general rule does not prohibit former government personnel from providing "behind the scenes" assistance to their employers on such matters.

REFLECTION
Post Government Employment

There is nothing wrong with an employee using the experience and expertise gained though his or her government employment in his or her employment outside the government. These post-employment rules do not prohibit an employee from accepting employment with any particular private or public employer. (The procurement integrity post-employment rules, however, may prohibit certain personnel from working for a prime contractor on contracts valued at $10 million or more on which the former employee performed while in the Government.) By switching sides on a particular matter, however, the former employee could be in a position to use that knowledge and expertise to the detriment of the Government in that on-going matter. To protect the Government, the ethics rules prohibit an employee from communicating or representing on behalf of someone else to his or her former agency. These rules are designed to prevent a former employee from "switching sides" i.e., representing another entity or company before the Government on a matter that he or she worked on while in government service to the detriment of the Government. Specifically, the post-employment rules are designed to prevent former employees from engaging in activities that involve, or appear to involve, the unfair use of their prior government employment.

SCENARIO
Post Government Employment

Suppose we change the facts in the prior scenario. Suppose Johnny properly disqualified himself from working on the IT contract with the Extra Company. The company subsequently made him an employment offer. Johnny accepts the offer, resigns from the Government, and goes to work for Extra Company. Because of his technical expertise and detailed knowledge of the IT contract requirements, Extra Company assigns him to be their representative on the IT contract. These duties will require Johnny to communicate with employees in his old office on a regular basis.

QUESTION
Post Government Employment

May Johnny represent Extra Company and communicate to his former co-workers on the IT contract?

Please choose the best answer. Should the general rule apply? Is there an exception?

1. No, Johnny may not represent Extra Company on the IT contract because he worked on that particular matter while he was a government employee.
2. Yes, Johnny may represent Extra Company on the IT contract, but not until one year after he leaves government service.
3. No, not only may Johnny not represent Extra Company on the IT contract, he must resign his position with Extra Company because it is a defense contractor.

ANSWER
Post Government Employment

[1] CORRECT! 18 U.S.C. 207(a)(1) permanently bars former federal personnel from communicating to or appearing before a federal agency on behalf of another entity with the intent to influence on the same particular matter involving specific parties in which they had participated personally and substantially. In this case, Johnny participated personally and substantially on the IT contract with Extra Company. Therefore, he may never communicate with his former co-workers (or any other Executive or Judicial Branch personnel) on behalf of Extra Company (or any other entity) on the IT contract. 18 U.S.C. 207 does not prohibit Johnny from accepting employment with Extra Company. He could provide “behind the scenes” work on the IT contract for Extra Company so long as he does not communicate to or appear before a federal agency on their behalf on that particular matter. It also would not prevent him from communicating to or appearing before his former co-workers on behalf of

ANSWER
Post Government Employment

[2] INCORRECT. The one-year cooling off period does not apply because Johnny, a YD-02 (GS-13) employee (from prior scenario), is not a senior official.

ANSWER
Post Government Employment

[3] INCORRECT. Johnny does not need to resign, as these statutes do not prohibit employment with defense contractors.

GENERAL RULE
Confidential Financial Disclosure Reporting Requirements

To help prevent financial conflicts of interest employees in certain positions are required to file an OGE 450 form disclosing certain financial interests. Specifically, employees in positions classified at GS-15 or below and service members O-6 and below are required to file the OGE 450 if the employee is involved in one of the following functions:

- Contracting or procurement;
- Administering or monitoring grants, subsidies, licenses, or other federally conferred financial or operational benefits;
- Regulating or auditing any non-Federal entity; or
- Any other activity in which the final decision or action will have a direct and substantial economic effect on the interest of any non-Federal entity.

And the employee participates personally and substantially through decision or the exercise of significant judgment in one of the matters identified above.

It is the supervisor’s responsibility to determine whether an employee is required to file a confidential financial disclosure report.

GENERAL RULE
Confidential Financial Disclosure Reporting Requirements

Time lines for filing the reports:

- A reporting individual shall submit an OGE 450 report that includes information for the preceding 12 months through his supervisor to his Ethics Counselor not later than 30 days after assuming duties in a covered position.
- An employee in a covered position must file an annual OGE 450 report during the annual reporting period. The reporting period for NAVAIR is from 1 January to 15 February. This reporting time frame, however, may be administratively shortened.

REFLECTION
Confidential Financial Disclosure Reporting Requirements

Employees in covered positions are required to file a confidential financial disclosure report because it helps ensure efficient and honest operation of the Government. It allows agencies to review for actual and potential conflicts of interest and assists in administering the agency's ethics program.

In the OGE 450 form, employees list reportable assets, sources of income, liabilities, outside positions, and agreements or arrangements.

GENERAL RULE
Confidential Financial Disclosure Reporting Assets and Income

- **Report for Yourself, Spouse, and Dependent Child:**
- -Assets held for investment with a value greater than $1,000 at the end of the reporting period OR assets held for investment which produced more than $200 in income during the reporting period, including but not limited to:
- -Assets such as stocks, bonds, annuities, trust holdings, partnership interests, life insurance, investment real estate, or a privately-held trade or business
- -**Sector** mutual funds: those funds invested in a particular industry, business, or location such as ABC Electronics Fund or XYZ Canada Fund (report the full name of the fund, not just the general family fund name)
- -Holdings of retirement plans, such as 401(k)s or IRAs (list each holding except diversified mutual funds)
- -Holdings of investment life insurance
- -Holdings of variable annuities
- -Defined benefit pension plans provided by a former employer (include the name of the employer)

GENERAL RULE
Confidential Financial Disclosure Reporting Assets and Income

- **Report for Yourself, Spouse, and Dependent Child:**
- **Also Report:**
- • For yourself:
- (1) all sources of salary, fees, commissions, and other earned income greater than $200,
- (2) honoraria greater than $200, and
- (3) other non-investment income such as scholarships, prizes, and gambling income greater than $200
-
- • For your spouse:
- (1) all sources of salary, fees, commissions, and other earned income greater than $1,000, and
- (2) honoraria greater than $200

GENERAL RULE
Confidential Financial Disclosure Reporting Assets and Income

Do Not Report:

- Federal Government retirement benefits
- Thrift Savings Plan
- Certificates of deposit, savings or checking accounts
- Term life insurance
- Money market mutual funds and money market accounts
- Your personal residence, unless you rent it out
- **Diversified** mutual funds, such as ABC Equity Value Fund or XYZ Large Capital Fund
- U.S. Government Treasury bonds, bills, notes, and savings bonds
- Money owed to you, your spouse, or dependent child by a spouse, parent, sibling, or child

GENERAL RULE
Confidential Financial Disclosure Reporting Assets and Income

Do Not Report:

- Dependent child's earned income
- Veterans' benefits
- Federal Government salary
- Social Security benefits

REFLECTION
Confidential Financial Disclosure Reporting Assets and Income

It allows supervisors to review for actual and potential conflicts of interest and assists in administering the agency's ethics program. By identifying and reviewing the employee's assets and income, a supervisor is better able to manage their department.

Supervisors are the first line of defense for protecting the interests of the agency and their employees by ensuring their personnel are not placed in positions that could create an actual or apparent conflict of interest between the employees' official duties and financial interests.

GENERAL RULE
Supervisor's Responsibilities for Reviewing Confidential Financial Disclosure Reports

- Supervisors are responsible for thoroughly reviewing their employee's confidential financial disclosure (OGE 450) reports to determine if an actual or potential conflicts of interest exist between the employee's financial interests and his or her official duties.

- If a supervisor determines an actual conflict of interest exists he should immediately disqualify the employee from the official duties that involve the conflict and contact an ethics counselor for further guidance. If the appearance of a conflict of interest may exist between an employee's financial interest and official duties, the supervisor should determine, after consultation with an ethics counselor, the appropriate remedy to eliminate the conflict of interest. Under most circumstances, the employee should be disqualified from taking any official action involving a matter that could have an effect on his financial interests.

GENERAL RULE
Supervisor's Responsibilities for Reviewing Confidential Financial Disclosure Reports

Timeline for review:

The Office of Government Ethics prescribes a very short and strict timeframe of 60 days to review and certify an OGE 450 form. That means, from the date that an employee submits an OGE 450 form to his supervisor, it must be reviewed by the supervisor and certified by an ethics counselor within 60 calendar days.

Supervisors are therefore encourage to review the submitted OGE 450 reports as soon as they receive them.

The time clock can be tolled if additional information is needed from the employee.

SCENARIO

Supervisor's Responsibilities for Reviewing Confidential Financial Disclosure Reports

Ron, a supervisor, is reviewing a confidential financial disclosure report filed by a contracting officer in his office. During his review he notes that the employee reports stock holdings in XYZ corporation. Ron expects that XYZ corporation will be bidding on an upcoming procurement and had planned on assigning the employee as the PCO for the contract.

QUESTION
Supervisor's Responsibilities for Reviewing Confidential Financial Disclosure Reports

What should Ron do next?

1. Sign the report and forward it to the ethics counselor for certification. The supervisor's only duty is to collect the reports and forward them in a timely manner. The ethics counselor will review the report, ensure it is complete, and check for conflicts of interest.
2. Inform the contracting officer that he may not participate in the upcoming procurement because his ownership of XYZ corporation stock creates a possible conflict of interest. Make a note on the OGE 450 form and forward it to the ethics counselor for review and certification.
3. Since XYZ corporation is not on the list of NAVAIR contactors there isn't a conflict of interest. Sign the report and send it to the ethics counselor for review and certification.
4. Terminate the employee for a possible conflict of interest.

ANSWER
Supervisor's Responsibilities for Reviewing Confidential Financial Disclosure Reports

[1] Incorrect. It is the supervisor's responsibility, not the ethics counselor's, to identify conflicting financial interest. The supervisor is the best (and sometimes only) person who can compare the employee's duties with his financial interest. Only after reviewing the report to determine that none of the employee's official duties involve companies in which the filer has a financial interest, should the supervisor sign the report and forward it to the ethics counselor.

ANSWER
Supervisor's Responsibilities for Reviewing Confidential Financial Disclosure Reports

[2] Correct! In this case the contracting officer owns stock in XYZ corporation and may have been assigned work that involved that corporation had Ron not done his job and completed a thorough review of the confidential financial disclosure report. Ron should also contact an ethics counselor to determine whether an exemption or other remedy exists.

ANSWER
Supervisor's Responsibilities for Reviewing Confidential Financial Disclosure Reports

[3] Incorrect. Checking the assets on the financial disclosure report against the list of contractors that do business with your organization may not be sufficient. As in this case, a conflict may occur with a company that is not on the NAVAIR contractor list.

ANSWER
Supervisor's Responsibilities for Reviewing Confidential Financial Disclosure Reports

[4] Incorrect. Supervisors are the first line of defense and should counsel filers so that they do not inadvertently violate the conflict of interest statutes. Remedies for possible conflicts include recusal or disqualification (which is required by statute until another remedy can adequately eliminate the conflict) reassignment, or divesting the asset by the employee. In this scenario, disqualification is appropriate--not termination.

GENERAL RULE
Gifts from Foreign Governments

- The issue of accepting gifts from Foreign Governments usually presents itself while on travel to a foreign country on official travel.

- Depending on the cultural traditions, gifts are exchanged at meetings or receptions. Often, in addition to official meetings that are conducted, there are social events or receptions. The host nation may provide dinner and include table favors, mementos, remembrances, souvenirs or marks of courtesy.

GENERAL RULE
Gifts from Foreign Governments

- In accordance with the Foreign Gifts and Decorations Act, 5 U.S.C. 7342, and its implementing regulations, a federal employee may accept a gift(s) of minimal value from a foreign government. "Minimal value" is $350 or less per 41 C.F.R. 102-42.10.
- Gifts include table favors, mementos, remembrances, souvenirs or marks of courtesy. Other gifts subject to this $350 limit include travel and travel expenses for travel taking place entirely outside the United States (i.e., travel that begins and ends outside the U.S. and does not cross the U.S. except where that it is the shortest, least expensive or only available route).

GENERAL RULE
Gifts from Foreign Governments

- The market value restriction for gifts of meals, refreshments and entertainment in a foreign area applies per event rather than per day; thus, you may accept food, refreshment, and entertainment more than once a day as long as the value for each event does not exceed the area's per diem rate for meals and lodging.

GENERAL RULE
Gifts from Foreign Governments

- Finally, the Confidential Financial Disclosure Report (OGE 450) and the Public Financial Disclosure Report (OGE 278) requires filers to report gifts received from any one source (foreign governments included) totaling $350 or more in any reporting period.

- Therefore, you should keep a record of all gifts received during the year.

REFLECTION
Gifts from Foreign Governments

- When a gift of more than minimal value is tendered, the host shall be advised that statutory provisions and policies prohibit employees from accepting such gifts or decorations, unless it appears that refusal of the gift or decoration may offend or embarrass the donor, or could affect adversely the foreign relations of the United States.

- Under such circumstances, the gift or decoration may be accepted on behalf of the United States. The gift or decoration then becomes the property of the United States Navy.

SCENARIO
Gifts from Foreign Governments

- Colonel Brown, Program Manager, PMA-123, is on official travel and just arrived at Naval Station, Rota, Spain for meetings with the Spanish Navy. While there, he is invited to a reception and dinner at the Spanish Officer's Club. After the dinner, he is presented with gifts from the Spanish government. The Office on Defense Cooperation presents him with a framed picture of the Alhambra in Granada, an Osborne bull paperweight and a bottle of Rioja wine. He has seen these items in a shop out in town. The picture was $200, and both the Osborne bull and the bottle of wine were less than $20.

QUESTION
Gifts from Foreign Governments

What should Col Brown do?

1. Accept only the paperweight and wine because the fair market value is less than $20.
2. Accept all three gifts as they are under the minimum value.
3. Refuse the gifts because he will not be able to show a receipt from the club and he does not like wine.
4. Refuse the gifts because he already accepted the gift of the dinner.

ANSWER
Gifts from Foreign Governments

[1] INCORRECT. While these two gifts are both under $20, the statute the Foreign Gifts and Decorations Act, 5 U.S.C. 7342, and its implementing regulations, permit Colonel Brown to accept a gifts of minimal value from a foreign government. "Minimal value" is $350 or less per 41 C.F.R. 102-42.10. So, the total value of all three gifts would be $240, which is of minimal value and therefore he may accept them.

ANSWER
Gifts from Foreign Governments

[2] CORRECT! Colonel Brown may accept all three gifts, as they are from a foreign government and of a minimal value.

ANSWER
Gifts from Foreign Governments

[3] INCORRECT. In this situation, he may accept the gifts. In addition, even if he was not certain of the fair market value, if it appears that refusal of the gift may offend or embarrass the donor, or could affect adversely the foreign relations of the United States, then the gift may be accepted on behalf of the United States.

ANSWER
Gifts from Foreign Governments

[4] INCORRECT. Colonel Brown may accept the dinner and the gifts. The market value restriction for gifts of meals, refreshments and entertainment in a foreign area applies per event rather than per day; thus, you may accept food, refreshment, and entertainment more than once a day as long as the value for each event does not exceed the area's per diem rate for meals and lodging.

GENERAL RULE
Gifts from Foreign Contractors

- Even though you are in a foreign country, the general gift prohibitions still apply for gifts from foreign contractors.
- Specifically, the applicable rules prohibit the acceptance of gifts with a value of more than $20 per occasion. Unsolicited gifts with a fair market value of $20 or less are exempted under 5 C.F.R. 2635.204(a), provided that the aggregate value from any one source does not exceed $50 during a calendar year.
- Keep in mind that the definition of a "gift" does not include items with little intrinsic value, such as plaques, certificates, and trophies, which are intended solely for presentation.

Conclusion

We hope this training has strengthened your understanding of the pertinent ethics issues. We also hope you will keep in mind that, no matter what the ethics issue may be, if you are not sure what to do, check with your ethics counselor before acting!

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